



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2011 REGULAR SESSION

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HOUSE BILL NO. 362

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FRIDAY, FEBRUARY 18, 2011

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The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED  
DATE March 10, 2011  
8:34 a.m.  
\_\_\_\_\_  
ELAINE N. WALKER  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY P. Kinsolving

1 AN ACT relating to ginseng.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 246.650 is amended to read as follows:

4 As used in KRS 246.660, unless the context clearly requires otherwise:

5 (1) "Harvest" means to take any part of the~~[wild]~~ ginseng plant while the plant is  
6 living; ~~and[.]~~

7 (2) "[Wild-]Ginseng" means any part of the American ginseng plant known as *Panax*  
8 *quinquefolius*~~[ginseng plant growing as nature caused the plant to grow without~~  
9 ~~any assistance from man, but includes any plant grown from seeds of a wild plant~~  
10 ~~replanted within fifty (50) feet of the harvesting point using no implement other~~  
11 ~~than fingers for planting.~~

12 (3) ~~"Cultivated ginseng" means any ginseng plant grown under natural or artificial~~  
13 ~~shade and cultivated according to varying standards of cultivation procedures].~~

14 ➔Section 2. KRS 246.660 is amended to read as follows:

15 (1) (a) The department shall administer a program for~~[wild-American]~~ ginseng in  
16 Kentucky which provides a framework, including a limited harvesting season,  
17 in which~~[wild-American]~~ ginseng shall be eligible for exportation in  
18 compliance with federal requirements.

19 (b) Information relating to the purchase or sale of ginseng that is furnished to  
20 or acquired by the department shall constitute proprietary information and  
21 not be subject to public disclosure, except to the extent the department  
22 deems necessary in any administrative or judicial proceeding involving the  
23 administration or enforcement of its administrative regulations.

24 (2) (a) The department shall promulgate administrative regulations to carry out this  
25 program and may~~[cooperate with and]~~ enter into agreements with any other  
26 agency of this state, any other state, or the federal government to carry out this  
27 program.~~[Any regulation promulgated under this section shall be no more~~

1 ~~restrictive than minimum federal requirements.]~~

2 (b) The department shall establish licensing requirements for dealers of  
3 ginseng.

4 (c) The department shall promulgate administrative regulations relating to the  
5 ginseng program that establish:

6 1. A comprehensive set of administrative violations and civil penalties  
7 each not to exceed one thousand dollars (\$1,000); and

8 2. The procedure for the suspension or revocation of any license or  
9 certificate issued by the department.

10 ➔SECTION 3. A NEW SECTION OF KRS 246.650 TO 246.660 IS CREATED  
11 TO READ AS FOLLOWS:

12 (1) There is hereby established in the State Treasury a separate trust and agency  
13 account to be known as the Kentucky ginseng fund to be administered by the  
14 Department of Agriculture.

15 (2) Moneys in this fund shall be used to help administer the ginseng program as  
16 provided by Section 2 of this Act.

17 (3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of  
18 the fiscal year, including interest, shall not lapse but shall be carried forward into  
19 the succeeding fiscal year to be used for the purposes set forth in this section.

20 (4) The fund may receive gifts, grants, federal funds, and any other funds both  
21 public and private.

22 ➔Section 4. KRS 246.990 is amended to read as follows:

23 (1) Any person who violates subsection (2) of KRS 246.210, subsection (2) of KRS  
24 246.220, or subsection (1) of KRS 246.420 shall be fined not less than fifty dollars  
25 (\$50) nor more than two hundred dollars (\$200) for the first offense; he shall be  
26 fined not less than five hundred dollars (\$500) nor more than one thousand dollars  
27 (\$1,000) and be confined in the county jail for not less than sixty (60) days nor more

1 than one hundred and twenty (120) days, for each subsequent offense.

2 (2) Any person who violates subsection (3) of KRS 246.220 shall be fined not less than  
3 five dollars (\$5) nor more than one hundred dollars (\$100) or be imprisoned for not  
4 more than ten (10) days, or both. Each day's hindering or refusal of access shall  
5 constitute a separate offense.

6 (3) Any person who violates subsection (4) of KRS 246.220 shall be fined not less than  
7 two dollars (\$2) nor more than fifty dollars (\$50).

8 (4) Any person who violates subsection (5) of KRS 246.220 shall be fined not less than  
9 twenty-five dollars (\$25) nor more than one hundred dollars (\$100).

10 (5) Any person who violates subsection (6) of KRS 246.220 shall be fined not less than  
11 ten dollars (\$10) nor more than fifty dollars (\$50).

12 (6) Any person who violates subsection (7) of KRS 246.220 shall be fined not less than  
13 one hundred dollars (\$100) nor more than five hundred dollars (\$500), or  
14 imprisoned for not more than three (3) months, or both.

15 (7) Any owner or operator of a dairy plant who shall fail to comply with the provisions  
16 of KRS 246.240 or any part thereof shall be guilty of a misdemeanor and upon  
17 conviction thereof shall be fined not more than one hundred dollars (\$100).

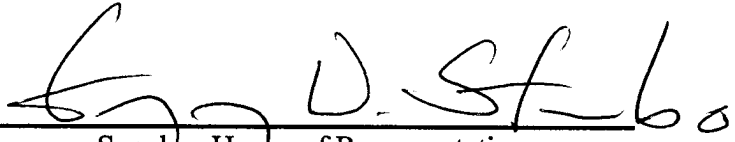
18 (8) (a) Any person who purchases ginseng knowing that the ginseng was taken,  
19 acquired, possessed, sold, transported, or purchased in violation of  
20 administrative regulations authorized under Section 2 of this Act shall be  
21 guilty of a Class A misdemeanor.

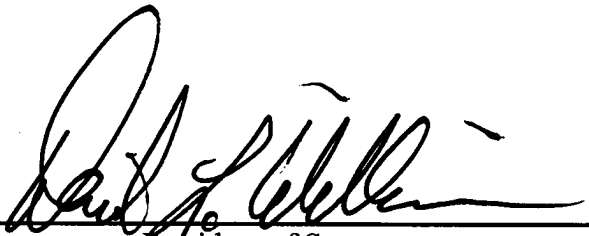
22 (b) The Commissioner or any peace officer may seize and take possession of  
23 any ginseng taken, acquired, possessed, sold, transported, or purchased by a  
24 person committing a violation of administrative regulations authorized  
25 under Section 2 of this Act. Any ginseng seized in accordance with this  
26 paragraph shall be impounded by the arresting officer and shall be taken  
27 before the court trying the person arrested.


1        (c) Upon conviction, the court trying the case shall have the discretion of  
 2        determining whether any of the ginseng seized under paragraph (b) of this  
 3        subsection shall be declared contraband. Any ginseng seized under  
 4        paragraph (b) of this subsection is subject to being declared contraband. If  
 5        any ginseng is declared contraband, the court shall enter an order  
 6        accordingly. A copy of the order shall be forwarded to the Commissioner  
 7        and the ginseng shall be placed in the custody of the arresting officer, to be  
 8        delivered to the Commissioner.

9        (d) The Commissioner may sell, at the highest market price obtainable, with the  
 10       approval of the Governor and Finance and Administration Cabinet, all  
 11       contraband ginseng which comes into his or her possession under the order  
 12       of any court. All proceeds arising from the sale of contraband ginseng shall  
 13       be paid into the Kentucky ginseng fund established in Section 3 of this Act.  
 14       A record of the sale, including the name of the purchaser and the price  
 15       paid, shall be kept by the Commissioner~~[Any person who violates any~~  
 16       ~~administrative regulation promulgated by the department under the provisions~~  
 17       ~~of KRS 246.660 shall have a civil fine imposed of not less than one hundred~~  
 18       ~~dollars (\$100) nor more than five hundred dollars (\$500)].~~

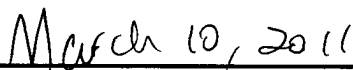
- 19       (9) Any person who violates subsection (2) of KRS 246.420 shall be disqualified from  
 20       exhibiting at an exhibition for a first offense, and shall be disqualified for up to five  
 21       (5) years for a second or subsequent offense.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date   
\_\_\_\_\_